

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2009-1627-PWS-E **TCEQ ID:** RN101264984 **CASE NO.:** 38488

RESPONDENTS NAMES: Joseph Little and Caverns Inn Restaurant & Motel, Inc. dba Caverns Inn

ORDER TYPE:		
<input type="checkbox"/> 1660 AGREED ORDER	<input checked="" type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input checked="" type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Caverns Inn, 31500 Interstate 10 West, Boerne, Kendall County</p> <p>TYPE OF OPERATION: Public water supply</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondents has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on March 15, 2010. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Jordan Jones, Enforcement Division, Enforcement Team 3, MC 149, (512) 239-2569; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495 Respondents: Mr. Joseph L. Little, Owner/President, Caverns Inn Restaurant & Motel, Inc. dba Caverns Inn, 31500 Interstate 10 West, Boerne, Texas 78006 Respondents' Attorney: Not represented by counsel on this enforcement matter</p>		

DOCKET NO.: 2009-1627-PWS-E

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: September 3 and October 9, 2009</p> <p>Date of NOV/NOE Relating to this Case: September 19, 2009 (NOE)</p> <p>Background Facts: These were record reviews.</p> <p>WATER</p> <p>1) Failure to comply with the maximum contaminant level ("MCL") for total coliform for the months of June 2008 and April 2009 and failure to provide public notice of the total coliform exceedance for the months of June 2008 and April 2009 [30 TEX. ADMIN. CODE §§ 290.109(f)(3) and 290.122(b)(2)(B) and TEX. HEALTH & SAFETY CODE § 341.033(d)].</p> <p>2) Failure to collect routine distribution coliform samples and failure to provide public notice of the failure to collect routine distribution coliform samples [30 TEX. ADMIN. CODE §§ 290.109(c)(2)(A)(i) and 290.122(c)(2)(B)].</p> <p>3) Failure to collect a set of repeat distribution coliform samples within 24 hours of being notified of a total coliform positive result on a routine sample and failure to provide public notice of the failure to collect samples [30 TEX. ADMIN. CODE §§ 290.109(c)(3)(A)(ii) and 290.122(c)(2)(B)].</p> <p>4) Failure to collect at least five distribution samples during the month following a total coliform positive sample result and failure to provide public notice of the failure to collect samples [30 TEX. ADMIN. CODE § 290.109(c)(2)(F)].</p>	<p>Total Assessed: \$4,401</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid (Due) to General Revenue: \$751 (remaining \$3,650 due in 5 monthly payments of \$730 each)</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p> <p>Findings Orders Justification: The Respondents have three repeated enforcement actions over the prior five year period for the same violation.</p>	<p>Ordering Provisions:</p> <p>The Order will require the Respondents to:</p> <p>a. Within 10 days after the effective date of this Agreed Order:</p> <p>i. Implement procedures to ensure that all necessary public notifications are provided in a timely manner to the customers of the Facility; and</p> <p>ii. Begin complying with applicable coliform monitoring requirements by collecting routine coliform distribution samples and providing water that meets the provisions regarding microbial contaminants. This provision will be satisfied upon six consecutive months of compliant monitoring and reporting.</p> <p>b. Within 30 days after the effective date of this Agreed Order, submit payment for all outstanding fees, including any associated penalties and interest; and</p> <p>c. Within 180 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision a.</p>

DOCKET NO.: 2009-1627-PWS-E

5) Failure to pay fees and associated late fees for TCEQ Financial Account No. 91300028 [TEX. HEALTH & SAFETY CODE § 341.041 and TEX. WATER CODE § 5.702].		
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Additional ID No(s): PWS-1300028



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	2-Oct-2009	Screening	6-Oct-2009	EPA Due	
	PCW	5-Oct-2009				

RESPONDENT/FACILITY INFORMATION

Respondent	Joseph Little and Caverns Inn Restaurant & Motel, Inc. dba Caverns Inn		
Reg. Ent. Ref. No.	RN101264984		
Facility/Site Region	13-San Antonio	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	38488	No. of Violations	5
Docket No.	2009-1627-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Jordan Jones
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit	Minimum \$50	Maximum	\$1,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History Enhancement **Subtotals 2, 3, & 7**

Notes

Culpability Enhancement **Subtotal 4**

Notes

Good Faith Effort to Comply Total Adjustments **Subtotal 5**

Economic Benefit Enhancement **Subtotal 6**

Total EB Amounts *Capped at the Total EB \$ Amount
 Approx. Cost of Compliance

SUM OF SUBTOTALS 1-7 **Final Subtotal**

OTHER FACTORS AS JUSTICE MAY REQUIRE **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty**

DEFERRAL Reduction **Adjustment**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

PAYABLE PENALTY

Screening Date 6-Oct-2009

Docket No. 2009-1627-PWS-E

PCW

Respondent Joseph Little and Caverns Inn Restaurant & Motel, Inc. d

Policy Revision 2 (September 2002)

Case ID No. 38488

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101264984

Media [Statute] Public Water Supply

Enf. Coordinator Jordan Jones

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	9	45%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%

Please Enter Yes or No

Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 47%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

An enhancement is due to nine NOVs with the same or similar violations as those in the current enforcement action, and one NOV for dissimilar violation.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 47%

Screening Date 6-Oct-2009

Docket No. 2009-1627-PWS-E

PCW

Respondent Joseph Little and Caverns Inn Restaurant & Motel, Inc. dba Cavern

Policy Revision 2 (September 2002)

Case ID No. 38488

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101264984

Media [Statute] Public Water Supply

Enf. Coordinator Jordan Jones

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 290.109(f)(3) and 290.122(b)(2)(B) and Tex. Health & Safety Code § 341.033(d)

Violation Description Failed to comply with the maximum containment level ("MCL") for total coliform for the months of June 2008 and April 2009; and failed to provide public notice of the total coliform exceedance for the months of June 2008 and April 2009.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR	Harm			Percent	
	Release	Major	Moderate		Minor
	Actual		x		
	Potential				25%

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0%

Matrix Notes The presence of coliform bacteria is an indication that the water supply is contaminated with significant amounts of total coliform that do not exceed levels that are protective of human health.

Adjustment \$750

\$250

Violation Events

Number of Violation Events 2 Number of violation days 60

mark only one with an x	daily	
	weekly	
	monthly	x
	quarterly	
	semiannual	
	annual	
single event		

Violation Base Penalty \$500

Two monthly events are recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes The Respondents do not meet the good faith criteria for this violation.

Violation Subtotal \$500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$229

Violation Final Penalty Total \$880

This violation Final Assessed Penalty (adjusted for limits) \$880

Economic Benefit Worksheet

Respondent Joseph Little and Caverns Inn Restaurant & Motel, Inc. dba Caverns Inn

Case ID No. 38488

Reg. Ent. Reference No. RN101264984

Media Public Water Supply

Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$200	1-Jun-2008	30-Apr-2009	1.83	\$18	\$200	\$218
Other (as needed)	\$10	1-Jun-2008	30-Apr-2009	1.83	\$1	\$10	\$11

Notes for AVOIDED costs

The avoided cost include the amount to provide additional oversight, to properly treat the water to prevent the presence of coliform bacteria and to provide public notice. The date required is the first day of the month of the first MCL exceedance, the final date is the last day of the month of the last MCL exceedance.

Approx. Cost of Compliance

\$210

TOTAL

\$229

Screening Date 6-Oct-2009

Docket No: 2009-1627-PWS-E

PCW

Respondent Joseph Little and Caverns Inn Restaurant & Motel, Inc. dba Caverns

Policy Revision 2 (September 2002)

Case ID No. 38488

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101264984

Media [Statute] Public Water Supply

Enf. Coordinator Jordan Jones

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code §§ 290.109(c)(2)(A)(i) and 290.122(c)(2)(B)

Violation Description

Failed to collect routine distribution coliform samples and failed to provide public notice of the failure to collect routine distribution coliform samples for the months of December 2007, March 2008, August 2008, December 2008, and January 2009.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				25%
Potential	x			

>> Programmatic Matrix

Matrix Notes	Falsification	Major	Moderate	Minor	Percent
	Failure to collect routine monitoring samples may allow undetected contaminants that exceed levels protective of human health to be distributed to the public resulting in illness.				

Adjustment \$750

\$250

Violation Events

Number of Violation Events 5 Number of violation days 120

mark only one with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$1,250

Five monthly events are recommended.

Good Faith Efforts to Comply

	0.0% Reduction	
	Before NOV	NOV to EDCRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes The Respondents do not meet the good faith criteria for this violation.

Violation Subtotal \$1,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$166

Violation Final Penalty Total \$2,201

This violation Final Assessed Penalty (adjusted for limits) \$2,201

Economic Benefit Worksheet

Respondent Joseph Little and Caverns Inn Restaurant & Motel, Inc. dba Caverns Inn

Case ID No. 38488

Reg. Ent. Reference No. RN101264984

Media Public Water Supply

Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Cost **Date Required** **Final Date** **Yrs** **Interest Saved** **Onetime Costs** **EB Amount**
Item Description: No commas or \$

Delayed Costs

Equipment			0.00	\$0	\$0	\$0
Buildings			0.00	\$0	\$0	\$0
Other (as needed)			0.00	\$0	\$0	\$0
Engineering/construction			0.00	\$0	\$0	\$0
Land			0.00	\$0	n/a	\$0
Record Keeping System			0.00	\$0	n/a	\$0
Training/Sampling			0.00	\$0	n/a	\$0
Remediation/Disposal			0.00	\$0	n/a	\$0
Permit Costs			0.00	\$0	n/a	\$0
Other (as needed)			0.00	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal			0.00	\$0	\$0	\$0
Personnel			0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling			0.00	\$0	\$0	\$0
Supplies/Equipment			0.00	\$0	\$0	\$0
Financial Assurance [2]			0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$150	1-Dec-2007	31-Jan-2009	2.09	\$16	\$166
Other (as needed)			0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost to collect and submit monthly water samples for analysis and provide public notification. The date required is the first month the Respondents failed to sample, the final date is the last month the Respondents failed to sample.

Approx. Cost of Compliance

\$150

TOTAL

\$166

Screening Date 6-Oct-2009

Docket No. 2009-1627-PWS-E

PCW

Respondent Joseph Little and Caverns Inn Restaurant & Motel, Inc. dba Caverns

Policy Revision 2 (September 2002)

Case ID No. 38488

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101264984

Media [Statute] Public Water Supply

Enf. Coordinator Jordan Jones

Violation Number 3

Rule Cite(s)

30 Tex. Admin. Code §§ 290.109(c)(3)(A)(ii) and 290.122(c)(2)(B)

Violation Description

Failed to collect a set of repeat distribution coliform samples within 24 hours of being notified of a total coliform positive result on a routine sample and failed to provide public notice of the failure to collect samples during the months of March 2009 and April 2009.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual:			
Potential:	x		

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Failure to take all required samples may expose the public to a significant amount of undetected contaminants that exceed levels protective of human health.

Adjustment \$750

\$250

Violation Events

Number of Violation Events 2

60 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$500

Two monthly events are recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondents do not meet the good faith criteria for this violation.

Violation Subtotal \$500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$221

Violation Final Penalty Total \$880

This violation Final Assessed Penalty (adjusted for limits) \$880

Economic Benefit Worksheet

Respondent Joseph Little and Caverns Inn Restaurant & Motel, Inc. dba Caverns Inn

Case ID No. 38488

Reg. Ent. Reference No. RN101264984

Media Public Water Supply

Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item: Cost **Date Required** **Final Date** **Yrs** **Interest Saved** **Onetime Costs** **EB Amount**

Item Description: No commas or \$

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment	0.00			0.00	\$0	\$0	\$0
Buildings	0.00			0.00	\$0	\$0	\$0
Other (as needed)	0.00			0.00	\$0	\$0	\$0
Engineering/construction	0.00			0.00	\$0	\$0	\$0
Land	0.00			0.00	\$0	n/a	\$0
Record Keeping System	0.00			0.00	\$0	n/a	\$0
Training/Sampling	0.00			0.00	\$0	n/a	\$0
Remediation/Disposal	0.00			0.00	\$0	n/a	\$0
Permit Costs	0.00			0.00	\$0	n/a	\$0
Other (as needed)	0.00			0.00	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal	0.00			0.00	\$0	\$0	\$0
Personnel	0.00			0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling	0.00			0.00	\$0	\$0	\$0
Supplies/equipment	0.00			0.00	\$0	\$0	\$0
Financial Assurance [2]	0.00			0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$210	1-Mar-2009	30-Apr-2009	1.08	\$11	\$210	\$221
Other (as needed)	0.00			0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided cost include the amount to collect a set of repeat distribution coliform samples (4 samples per month and 1 public notice per month). The date required is the first month the Respondents failed to sample, the final date is the last month the Respondents failed to sample.

Approx. Cost of Compliance

\$210

TOTAL

\$221

Screening Date 6-Oct-2009

Docket No. 2009-1627-PWS-E

PCW

Respondent Joseph Little and Caverns Inn Restaurant & Motel, Inc. dba Caverns

Policy Revision 2 (September 2002)

Case ID No. 38488

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101264984

Media [Statute] Public Water Supply

Enf. Coordinator Jordan Jones

Violation Number 4

Rule Cite(s)

30 Tex. Admin. Code § 290.109(c)(2)(F)

Violation Description

Failed to collect at least five distribution samples during the month following a total coliform positive sample result and failure to provide public notice of the failure to collect samples during the month of July 2009.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	X		

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Failure to take all required samples may expose the public to significant amount of undetected contaminants that exceed levels protective of human health.

Adjustment \$750

\$250

Violation Events

Number of Violation Events 1

30 Number of violation days

mark only one with an x

daily	
weekly	
monthly	X
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$250

One monthly event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes

The Respondents do not meet the good faith criteria for this violation.

Violation Subtotal \$250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$110

Violation Final Penalty Total \$440

This violation Final Assessed Penalty (adjusted for limits) \$440

Economic Benefit Worksheet

Respondent: Joseph Little and Caverns Inn Restaurant & Motel, Inc. dba Caverns Inn
Case ID No.: 38488
Reg. Ent. Reference No.: RN101264984
Media: Public Water Supply
Violation No.: 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$100	1-Jul-2009	31-Jul-2009	1.00	\$5	\$100	\$105
Other (as needed)	\$5	1-Jul-2009	31-Jul-2009	1.00	\$0	\$5	\$5

Notes for AVOIDED costs

The avoided cost include the amount to collect four additional distribution coliform samples and to provide public notice during the months following a total coliform positive sample was collected calculated for the month during which the increased sampling should have occurred.

Approx. Cost of Compliance

\$105

TOTAL

\$110

Screening Date 6-Oct-2009 **Docket No.** 2009-1827-PWS-E **PCW**
Respondent Joseph Little and Caverns Inn Restaurant & Motel, Inc. dba Caverns *Policy Revision 2 (September 2002)*
Case ID No. 38488 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN101264984
Media [Statute] Public Water Supply
Enf. Coordinator Jordan Jones
Violation Number 5
Rule Cite(s) Tex. Health & Safety Code § 341.041 and Tex. Water Code § 5.702
Violation Description Failed to pay fees and associated late fees for TCEQ Financial Account No. 91300028.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0%
	Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
					0%

Matrix Notes: N/A

Adjustment \$1,000

\$0

Violation Events

Number of Violation Events: Number of violation days:

mark only one with an x	daily	<input type="text"/>
	weekly	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input checked="" type="checkbox"/>

Violation Base Penalty \$0

No additional administrative penalty was calculated for this violation as penalties and interest will be assessed on the next fee billing.

Good Faith Efforts to Comply 0.0% Reduction \$0

Extraordinary	Reduction	
	Before NOV	NOV to EDRP/Settlement Offer
Ordinary	<input type="text"/>	<input type="text"/>
N/A	X	(mark with x)

Notes:

Violation Subtotal \$0

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount \$0 **Violation Final Penalty Total** \$0

This violation Final Assessed Penalty (adjusted for limits) \$0

Economic Benefit Worksheet

Respondent Joseph Little and Caverns Inn Restaurant & Motel, Inc. dba Caverns Inn
Case ID No. 38488
Reg. Ent. Reference No. RN101264984
Media Public Water Supply
Violation No. 5

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	N/A	\$0
Record Keeping System				0.00	\$0	N/A	\$0
Training/Sampling				0.00	\$0	N/A	\$0
Remediation/Disposal				0.00	\$0	N/A	\$0
Permit Costs				0.00	\$0	N/A	\$0
Other (as needed)				0.00	\$0	N/A	\$0

Notes for DELAYED costs

N/A

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

N/A

Approx. Cost of Compliance

\$0

TOTAL

\$0

Compliance History Report

Customer/Respondent/Owner-Operator: CN603209818 Caverns Inn Restaurant & Motel, Inc. Classification: Rating:
 Regulated Entity: RN101284984 CAVERNS INN Classification: Site Rating:
 ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1300028
 Location: 31500 INTERSTATE 10 W, BOERNE, TX, 78006
 TCEQ Region: REGION 13 - SAN ANTONIO
 Date Compliance History Prepared: October 05, 2009
 Agency Decision Requiring Compliance History: Enforcement
 Compliance Period: October 05, 2004 to October 05, 2009
 TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
 Name: Jordan Jones Phone: 512-239-2569

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s) ? N/A
5. When did the change(s) in owner or operator occur? N/A

6 Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

N/A

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	05/17/2007	(558325)
2	12/20/2007	(612315)
3	08/06/2009	(763999)
4	09/03/2009	(764978)
5	09/03/2009	(764984)
6	09/03/2009	(764997)
7	09/03/2009	(765012)
8	09/03/2009	(765023)
9	09/03/2009	(765038)
10	09/03/2009	(765041)
11	09/03/2009	(774881)
12	09/19/2009	(775190)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date:	05/18/2007	(558325)	CN603209818
Self Report?	NO		Classification: Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.46(s)(1) Failure to calibrate well meter once every three years.		
Self Report?	NO		Classification: Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.46(f)(3)(A)(i)(III) 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(A)(ii)(III)		
Description:	30 TAC Chapter 290, SubChapter D 290.46(f)(3)(B)(iii) Failure to document weekly monitoring of water usage, chemical usage and chlorine residuals.		

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(iii)
 30 TAC Chapter 290, SubChapter F 290.110(c)(5)(A)
 Description: Failure to rotate bacteriological and residual sampling locations.
 Date: 02/21/2008 (763999) CN603209818

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
 Description: TCR Routine Monitoring Violation 12/2007 - Failure to collect any routine monitoring sample(s).

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)
 Description: TCR PN Routine Monitoring Violation 12/2007 - Failure to post public notice for not collecting any routine monitoring sample(s).
 Date: 04/29/2008 (764978) CN603209818

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
 Description: TCR Routine Monitoring Violation 03/2008 - Failure to collect any routine monitoring sample(s).

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)
 Description: TCR PN Routine Monitoring Violation 03/2008 - Failure to post public notice for not collecting any routine monitoring sample(s).
 Date: 06/11/2008 (764984) CN603209818

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(3)
 Description: TCR MCL Violation 06/2008 - System exceeded a Maximum Contaminant Level Violation.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(b)(2)(B)
 Description: TCR PN MCL Violation 06/2008 - Failure to post a public notice for exceeding a Maximum Contaminant Level Violation.
 Date: 09/03/2008 (764997) CN603209818

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(F)
 Description: TCR Increase Monitoring Violation 07/2008 - Failure to collect any of the 5 distribution samples following a coliform found month.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)
 Description: TCR PN Increase Monitoring Violation 07/2008 - Failure to post public notice for not collecting all 5 distribution samples following a coliform found month.
 Date: 10/10/2008 (765012) CN603209818

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
 Description: TCR Routine Monitoring Violation 08/2008 - Failure to collect any routine monitoring sample(s).

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)
 Description: TCR PN Routine Monitoring Violation 08/2008 - Failure to post public notice for not collecting any routine monitoring sample(s).
 Date: 03/09/2009 (765023) CN603209818

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
 Description: TCR Routine Monitoring Violation 12/2008 - Failure to collect any routine monitoring sample(s).

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
 Description: TCR PN Routine Monitoring Violation 12/2008 - Failure to post public notice for not collecting any routine monitoring sample(s).
 Date: 05/05/2009 (765041) CN603209818

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(3)
 Description: TCR MCL Violation 04/2009 - System exceeded a Maximum Contaminant Level Violation.

Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 290, SubChapter F 290.122(b)(2)(B)		
Description:	TCR PN MCL Violation 04/2009 - Failure to post a public notice for exceeding a Maximum Contaminant Level Violation.		
Date:	05/26/2009 (765038)	CN603209818	
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 290, SubChapter F 290.109(c)(3)(A)(II)		
Description:	TCR Repeat Monitoring Violation 03/2009 - Failure to collect all repeats following a coliform found result.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)		
Description:	TCR PN Repeat Monitoring Violation 03/2009 - Failure to post public notice for not collecting any repeats following a coliform found result.		
Date:	06/15/2009 (774881)	CN603209818	
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 290, SubChapter F 290.109(c)(3)(A)(II)		
Description:	TCR Repeat Monitoring Violation 04/2009 - Failure to collect any repeat monitoring sample(s) following a coliform found result.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)		
Description:	TCR PN Repeat Monitoring Violation 04/2009 - Failure to post public notice for not collecting any repeat monitoring sample(s) following a coliform found result.		

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

Compliance History Report

Customer/Respondent/Owner-Operator:	CN603553868 Joseph Little	Classification:	Rating:
Regulated Entity:	RN101264984 CAVERNS INN	Classification:	Site Rating:
ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION	1300028
Location:	31500 INTERSTATE 10 W, BOERNE, TX, 78006		
TCEQ Region:	REGION 13 - SAN ANTONIO		
Date Compliance History Prepared:	October 26, 2009		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	October 26, 2004 to October 26, 2009		
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History			
Name:	Jordan Jones	Phone:	512-239-2569

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s) ? N/A
5. When did the change(s) in owner or operator occur? N/A

Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

N/A

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	05/17/2007	(558325)
2	12/20/2007	(612315)
3	08/06/2009	(763999)
4	09/03/2009	(764978)
5	09/03/2009	(764984)
6	09/03/2009	(764997)
7	09/03/2009	(765012)
8	09/03/2009	(765023)
9	09/03/2009	(765038)
10	09/03/2009	(765041)
11	09/03/2009	(774881)
12	09/19/2009	(775190)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 05/18/2007 (558325)

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(1)
 Description: Failure to calibrate well meter once every three years.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(A)(I)(III)
 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(A)(II)(III)
 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(B)(III)

Description: Failure to document weekly monitoring of water usage, chemical usage and chlorine residuals.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(iii)
 30 TAC Chapter 290, SubChapter F 290.110(c)(5)(A)

Description: Failure to rotate bacteriological and residual sampling locations.
 Date: 02/21/2008 (763999)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
 Description: TCR Routine Monitoring Violation 12/2007 - Failure to collect any routine monitoring sample(s).

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)
 Description: TCR PN Routine Monitoring Violation 12/2007 - Failure to post public notice for not collecting any routine monitoring sample(s).
 Date: 04/29/2008 (764978)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
 Description: TCR Routine Monitoring Violation 03/2008 - Failure to collect any routine monitoring sample(s).

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)
 Description: TCR PN Routine Monitoring Violation 03/2008 - Failure to post public notice for not collecting any routine monitoring sample(s).
 Date: 06/11/2008 (764984)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(3)
 Description: TCR MCL Violation 06/2008 - System exceeded a Maximum Contaminant Level Violation.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(b)(2)(B)
 Description: TCR PN MCL Violation 06/2008 - Failure to post a public notice for exceeding a Maximum Contaminant Level Violation.
 Date: 09/03/2008 (764997)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(F)
 Description: TCR Increase Monitoring Violation 07/2008 - Failure to collect any of the 5 distribution samples following a coliform found month.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)
 Description: TCR PN Increase Monitoring Violation 07/2008 - Failure to post public notice for not collecting all 5 distribution samples following a coliform found month.
 Date: 10/10/2008 (765012)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
 Description: TCR Routine Monitoring Violation 08/2008 - Failure to collect any routine monitoring sample(s).

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)
 Description: TCR PN Routine Monitoring Violation 08/2008 - Failure to post public notice for not collecting any routine monitoring sample(s).
 Date: 03/09/2009 (765023)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
 Description: TCR Routine Monitoring Violation 12/2008 - Failure to collect any routine monitoring sample(s).

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
 Description: TCR PN Routine Monitoring Violation 12/2008 - Failure to post public notice for not collecting any routine monitoring sample(s).
 Date: 05/05/2009 (765041)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(3)
 Description: TCR MCL Violation 04/2009 - System exceeded a Maximum Contaminant Level Violation.

Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 290, SubChapter F 290.122(b)(2)(B)		
Description:	TCR PN MCL Violation 04/2009 - Failure to post a public notice for exceeding a Maximum Contaminant Level Violation.		
Date:	05/26/2009	(765038)	
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 290, SubChapter F 290.109(c)(3)(A)(ii)		
Description:	TCR Repeat Monitoring Violation 03/2009 - Failure to collect all repeats following a coliform found result.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)		
Description:	TCR PN Repeat Monitoring Violation 03/2009 - Failure to post public notice for not collecting any repeats following a coliform found result.		
Date:	06/15/2009	(774881)	
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 290, SubChapter F 290.109(c)(3)(A)(ii)		
Description:	TCR Repeat Monitoring Violation 04/2009 - Failure to collect any repeat monitoring sample(s) following a coliform found result.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)		
Description:	TCR PN Repeat Monitoring Violation 04/2009 - Failure to post public notice for not collecting any repeat monitoring sample(s) following a coliform found result.		

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

K. Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
JOSEPH LITTLE AND CAVERNS INN
RESTAURANT & MOTEL, INC. DBA
CAVERNS INN
RN101264984

§
§
§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2009-1627-PWS-E

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Joseph Little and Caverns Inn Restaurant & Motel, Inc. dba Caverns Inn ("the Respondents") under the authority of TEX. HEALTH & SAFETY CODE ch. 341 and TEX WATER CODE ch. 5. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondents presented this agreement to the Commission.

The Respondents understand that they have certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondents agree to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondents.

The Commission makes the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

1. The Respondents own and operate a public water supply at 31500 Interstate 10 West in Boerne, Kendall County, Texas (the "Facility") that has approximately 23 service connections and serves at least 25 people per day for at least 60 days per year.
2. During a record review on September 3, 2009, TCEQ staff documented that the Respondents did not comply with the maximum contaminant level ("MCL") for total coliform for the months of June 2008 and April 2009 and did not provide public notification for the total coliform exceedance for the months of June 2008 and April 2009.
3. During a record review on September 3, 2009, TCEQ staff documented that the Respondents did not collect routine distribution coliform samples and failed to provide public notice of the failure to collect routine distribution coliform samples for the months of December 2007, March 2008, August 2008, December 2008, and January 2009.
4. During a record review on September 3, 2009, TCEQ staff documented that the Respondents did not collect a set of repeat distribution coliform samples within 24 hours of being notified of a total coliform positive result on a routine sample and failed to provide public notice of the failure to collect samples during the months of March 2009 and April 2009.
5. During a record review on September 3, 2009, TCEQ staff documented that the Respondents did not collect at least five distribution samples during the month following a total coliform positive sample result and failure to provide public notice of the failure to collect samples during the month of July 2009.
6. During a record review on October 9, 2009, TCEQ staff documented that the Respondents did not pay fees and associated late fees for TCEQ Financial Account No. 91300028.
7. The Respondents received notice of the violations on September 24, 2009.

II. CONCLUSIONS OF LAW

1. The Respondents are subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 2, the Respondents failed to comply with the MCL for total coliform for the months of June 2008 and April 2009; and failed to provide public notice of the total coliform exceedance for the months of June 2008 and April 2009, in violation of 30 TEX. ADMIN. CODE §§ 290.109(f)(3) and 290.122(b)(2)(B) and TEX. HEALTH & SAFETY CODE § 341.033(d).

3. As evidenced by Findings of Fact No. 3, the Respondents failed to collect routine distribution coliform samples and failed to provide public notice of the failure to collect routine distribution coliform samples, in violation of 30 TEX. ADMIN. CODE §§ 290.109(c)(2)(A)(i) and 290.122(c)(2)(B).
4. As evidenced by Findings of Fact No. 4, the Respondents failed to collect a set of repeat distribution coliform samples within 24 hours of being notified of a total coliform positive result on a routine sample and failed to provide public notice of the failure to collect samples, in violation of 30 TEX. ADMIN. CODE §§ 290.109(c)(3)(A)(ii) and 290.122(c)(2)(B).
5. As evidenced by Findings of Fact No. 5, the Respondents failed to collect at least five distribution samples during the month following a total coliform positive sample result and failure to provide public notice of the failure to collect samples, in violation of 30 TEX. ADMIN. CODE § 290.109(c)(2)(F).
6. As evidenced by Findings of Fact No. 6, the Respondents failed to pay fees and associated late fees for TCEQ Financial Account No. 91300028, in violation of TEX. HEALTH & SAFETY CODE § 341.041 and TEX. WATER CODE § 5.702, as documented during a record review conducted on October 9, 2009.
7. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against the Respondents for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
8. An administrative penalty in the amount of Four Thousand Four Hundred One Dollars (\$4,401) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b). The Respondents have paid Seven Hundred Fifty-One Dollars (\$751) of the administrative penalty. The remaining amount of Three Thousand Six Hundred Fifty Dollars (\$3,650) of the administrative penalty shall be payable in five monthly payments of Seven Hundred Thirty Dollars (\$730) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondents fail to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondents to meet the payment schedule of this Agreed Order constitutes the failure by the Respondents to timely and satisfactorily comply with all the terms of this Agreed Order.

III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
ORDERS that:

1. The Respondents are assessed an administrative penalty in the amount of Four Thousand Four Hundred One Dollars (\$4,401) as set forth in Section II, Paragraph 8 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondents' compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Joseph Little and Caverns Inn Restaurant & Motel, Inc. dba Caverns Inn, Docket No. 2009-1627-PWS-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. Joseph Little and Caverns Inn Restaurant & Motel, Inc. dba Caverns Inn are jointly and severally liable for the violations documented in this Agreed Order, and are jointly and severally liable for timely and satisfactory compliance with all terms and conditions of this Agreed Order.
3. The Respondents shall undertake the following technical requirements:
 - a. Within 10 days after the effective date of this Agreed Order:
 - i. Implement procedures to ensure that all necessary public notifications are provided in a timely manner to the customers of the Facility, in accordance with 30 TEX. ADMIN. CODE § 290.122; and
 - ii. Begin complying with applicable coliform monitoring requirements by collecting routine coliform distribution samples and providing water that meets the provisions regarding microbial contaminants, in accordance with 30 TEX. ADMIN. CODE § 290.109. This provision will be satisfied upon six consecutive months of compliant monitoring and reporting.
 - b. Within 30 days after the effective date of this Agreed Order, submit payment for all outstanding fees, including any associated penalties and interest and with the notation, "Re: Joseph Little and Caverns Inn Restaurant & Motel, Inc. dba Caverns Inn, TCEQ Financial Administration Account No. 91300028", to the address listed in Ordering Provision No. 1; and
 - c. Within 180 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 3.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Public Water Supply Section, Manager
Austin Regional Office
Texas Commission on Environmental Quality
2800 S IH 35, Suite 100
Austin, Texas 78704-5712

4. The provisions of this Agreed Order shall apply to and be binding upon the Respondents. The Respondents are ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondents shall be made in writing to the Executive Director. Extensions are not effective until the Respondents receive written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondents if the Executive Director determines that the Respondents have not complied with one or more of the terms or conditions in this Agreed Order.
7. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.

8. This Agreed Order, issued by the Commission, shall not be admissible against the Respondents in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
9. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.
10. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

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ENFORCEMENT DIVISION

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John Siddle
For the Executive Director

3/26/2010
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of Joseph Little and Caverns Inn Restaurant & Motel, Inc. dba Caverns Inn. I am authorized to agree to the attached Agreed Order on behalf of Joseph Little and Caverns Inn Restaurant & Motel, Inc. dba Caverns Inn, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, Joseph Little and Caverns Inn Restaurant & Motel, Inc. dba Caverns Inn waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

John Siddle
Signature

3-17-10
Date

Joseph Little
Name (Printed or typed)
Authorized Representative of
Joseph Little dba Caverns Inn

OWNER
Title

